

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JIMMY BOSTIC,)
Plaintiff,)
-vs-)
BRENDA VICTOR and FEDERAL) Case No. CIV-19-1098-F
BUREAU OF PRISONS,)
Defendants.)

ORDER

On November 25, 2019, plaintiff, Jimmy Bostic, who appears pro se, filed a complaint against defendants Brenda Victor (who plaintiff appears to allege is a federal official or employee) and the Federal Bureau of Prisons, a United States agency (which was added to the caption by the court, based on allegations indicating it is a defendant). Also on November 25, 2019, Magistrate Judge Shon T. Erwin entered an order granting plaintiff leave to proceed in this action without prepayment of fees or giving security for such payment. Thus, plaintiff has been permitted to proceed in this action in forma pauperis.

Section 1915(d) of Title 28 of the United States Code provides that “[t]he officers of the court shall issue and serve all process, and perform all duties in [in forma pauperis] cases.” 28 U.S.C. § 1915(d). Rule 4(c)(3), Fed. R. Civ. P., also provides that the court is to order service to be made by the United States marshal or deputy marshal or by a person specially appointed by the court “if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915(d).” In Olsen v. Mapes, 333 F.3d 1199 (10th Cir. 2003), the Tenth Circuit, citing to § 1915(d) and

Rule 4(c)(2), now Rule 4(c)(3), stated: “[w]hen a plaintiff is granted in forma pauperis status, the district court is required to serve process for the plaintiff.” *Id.* at 1204.

Because plaintiff has been granted in forma pauperis status, he is entitled to have service effected by the court.¹ Accordingly, in order for the court to serve process for the plaintiff in this case, plaintiff is **DIRECTED** to complete the enclosed Pro Se Litigant’s Request for Issuance of Summons, Summons, and USM-285 Form for each defendant and to return the completed documents to the court within twenty (20) days from the date of this order. Failure of plaintiff to comply with this order may result in the dismissal of this action without prejudice.

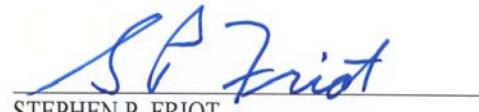
After the court’s receipt from plaintiff of the completed Pro Se Litigant’s Request for Issuance of Summons, Summons, and USM-285 Form for each defendant, the clerk is **DIRECTED** to forward the Summonses and the USM-285 Forms, along with copies of the Complaint (doc. no. 1), the Order granting in forma pauperis status (doc. no. 4), and a copy of this order (doc. no. 7), to the U.S. Marshal for service on the defendants.

Furthermore, although the time for service set out in Rule 4(m), Fed. R. Civ. P., is ninety days after the filing of the complaint, the court hereby **EXTENDS** the time for service of this action upon the defendants for an additional ninety days from the date of today’s order. Plaintiff is advised that unless service has been completed within ninety days from the date of this order, that absent a showing of good cause for the failure to timely serve or absent a grant of another permissive extension of

¹ Earlier, the court entered an order requiring plaintiff to show cause why he had not effected service on the defendants. Doc. no. 5. That order is **STRICKEN** because it did not account for the fact that plaintiff has been granted in forma pauperis status. On March 6, 2020, plaintiff filed a document in response to the show cause order. Doc. no. 6. That document, however, does not show service on either of the defendants in the manner required. Accordingly, to date, proper service has not yet been effected.

time within which to serve, this action may then be dismissed, without prejudice, for failure to obtain timely service.

IT IS SO ORDERED this 10th day of March, 2020.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

19-1098p002.docx